

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Edison)
Company, The Cleveland Electric Illuminating) Case No. 18-1604-EL-UNC
Company and The Toledo Edison Company to)
Implement Matters Relating to the Tax Cuts
and Jobs Act of 2017

**MOTION TO INTERVENE OF
THE KROGER CO.**

Pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Adm. Code, The Kroger Co. (Kroger) respectfully moves the Public Utilities Commission of Ohio (Commission) for leave to intervene in the above-captioned matter with the full powers and rights granted to intervening parties. Kroger has a real and substantial interest in this proceeding which may be adversely affected by the outcome herein, and which cannot be adequately represented by any other existing parties. Accordingly, Kroger satisfies the standard for intervention set forth in Ohio statutes and regulations.

Therefore, Kroger respectfully requests that the Commission grant this motion to intervene and that Kroger be made a full party of record in this proceeding. A memorandum in support is attached hereto.

Respectfully submitted,

/s/ Angela Paul Whitfield
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MEMORANDUM IN SUPPORT

On October 30, 2018, the Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively, FirstEnergy) filed an Application to Implement Matters Relating to the Tax Cuts and Jobs Act of 2017 (TCJA) with the Public Utilities Commission of Ohio (Commission).¹ FirstEnergy initiated this proceeding in order to resolve issues related to the impact of the TCJA on the rates charged to customers and to establish a process specific to FirstEnergy to facilitate an efficient resolution of those TCJA impacts.² To date, however, FirstEnergy has not detailed any proposal of the changes to rates it seeks to implement in this proceeding. FirstEnergy also has also not given any indication to customers as to how it proposes to resolve the outstanding issues currently being addressed in the Commission’s investigation into the TCJA in Case No. 18-0047-AU-COI. Accordingly, Kroger hereby moves to intervene in this matter in order to ensure that the several Kroger facilities in FirstEnergy’s service territory fully realize the tax savings benefits of the TCJA.

Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, establish the standard for intervention in the above-captioned proceeding. Section 4903.221, Revised Code, provides, in part, that any person “who may be adversely affected” by a

¹ See FirstEnergy’s Application to Implement Matters Relating to the Tax Cuts and Jobs Act of 2017 (Application) (October 30, 2018).

² See Application at ¶ 3.

Commission proceeding is entitled to seek intervention in that proceeding. Section 4903.221(B), Revised Code, further requires the Commission to consider the nature and extent of the prospective intervenor's interest, the legal position advanced by the prospective intervenor and its probable relation to the merits of the case, whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding, and the prospective intervenor's potential contribution to a just and expeditious resolution of the issues involved.

Rule 4901-1-11, Ohio Adm. Code, permits intervention by a party who demonstrates a real and substantial interest in the proceeding and who is so situated that the disposition of the proceeding may impair or impede its ability to protect that interest and whose interest is not adequately represented by an existing party.

Kroger is one of the largest grocers in the United States, with numerous facilities served by FirstEnergy. The facilities operated by Kroger use electricity for food storage, lighting, heating, cooling, and distribution, often 24 hours a day, 7 days a week. Kroger's electric distribution needs associated with its facilities in FirstEnergy's service territories are considerable, and the costs associated with obtaining such services from FirstEnergy will be impacted by the outcome of this proceeding.

Therefore, Kroger has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect that interest. Kroger is regularly and actively involved in Commission proceedings, including, but not limited to, proceedings instituted by other utilities or

the Commission regarding the impacts of the TCJA ³ and, as in previous proceedings, Kroger's unique knowledge and perspective will contribute to the full development and equitable resolution of the factual issues in this proceeding, and Kroger's interest will not be adequately represented by other parties to this proceeding. Finally, this timely intervention will not unduly delay or prolong this proceeding.

Kroger satisfies the criteria set forth in Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Adm. Code, and is, therefore, authorized to intervene in the above-captioned proceeding with the full powers and rights granted by the Commission to intervening parties. Accordingly, Kroger respectfully requests that the Commission grant this motion for leave to intervene and that Kroger be made a full party of record.

Respectfully submitted,

/s/ Angela Paul Whitfield
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Counsel for The Kroger Co.

³ See e.g., *In the Matter of Ohio Power Company's Implementation of the Tax Cuts and Jobs Act of 2017*, Case No. 18-1007-EL-UNC; *In the Matter of the Application of Ohio Power Company to Establish the Tax Savings Credit Rider*, Case No. 18-1451-EL-ATA; *In the Matter of the Application of Duke Energy Ohio, Inc., for Implementation of the Tax Cuts and Jobs Act of 2017*, Case No. 18-1185-EL-UNC; *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of Tariff Amendments*, Case No. 18-1186-EL-ATA; *In the Matter of the Commission's Investigation of the Financial Impact of the Tax Cuts and Job Acts of 2017 on Regulated Ohio Utility Companies*, Case No. 18-0047-AU-COI.

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon all parties of record via electronic mail November 2, 2018.

/s/ Angela Paul Whitfield
Angela Paul Whitfield

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Summary: Motion MOTION TO INTERVENE OF THE KROGER CO. electronically filed by Mrs. Angela Whitfield on behalf of The Kroger Co.